

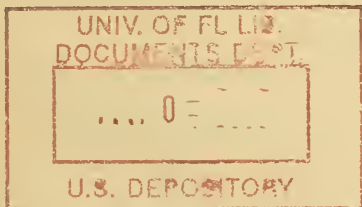
NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

FOR THE

**BOTTLING MACHINERY AND
EQUIPMENT
MANUFACTURING INDUSTRY**

AS APPROVED ON APRIL 4, 1934



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1934

This publication is for sale by the Superintendent of Documents, Government Printing Office, Washington, D.C., and by district offices of the Bureau of Foreign and Domestic Commerce.

DISTRICT OFFICES OF THE DEPARTMENT OF COMMERCE

Atlanta, Ga.: 504 Post Office Building.
Birmingham, Ala.: 257 Federal Building.
Boston, Mass.: 1891 Customhouse.
Buffalo, N.Y.: Chamber of Commerce Building.
Charleston, S.C.: Chamber of Commerce Building.
Chicago, Ill.: Suite 1706, 201 North Wells Street.
Cleveland, Ohio: Chamber of Commerce.
Dallas, Tex.: Chamber of Commerce Building.
Detroit, Mich.: 801 First National Bank Building.
Houston, Tex.: Chamber of Commerce Building.
Indianapolis, Ind.: Chamber of Commerce Building.
Jacksonville, Fla.: Chamber of Commerce Building.
Kansas City, Mo.: 1028 Baltimore Avenue.
Los Angeles, Calif.: 1163 South Broadway.
Louisville, Ky.: 408 Federal Building.
Memphis, Tenn.: 229 Federal Building.
Minneapolis, Minn.: 213 Federal Building.
New Orleans, La.: Room 225-A, Customhouse.
New York, N.Y.: 734 Customhouse
Norfolk, Va.: 406 East Plume Street.
Philadelphia, Pa.: 422 Commercial Trust Building.
Pittsburgh, Pa.: Chamber of Commerce Building.
Portland, Oreg.: 215 New Post Office Building.
St. Louis, Mo.: 506 Olive Street.
San Francisco, Calif.: 310 Customhouse.
Seattle, Wash.: 809 Federal Office Building.

Approved Code No. 379

CODE OF FAIR COMPETITION

FOR THE

BOTTLING MACHINERY AND EQUIPMENT
MANUFACTURING INDUSTRY

As Approved on April 4, 1934

ORDER

APPROVING CODE OF FAIR COMPETITION FOR THE BOTTLING MACHINERY
AND EQUIPMENT MANUFACTURING INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of a Code of Fair Competition for the Bottling Machinery and Equipment Manufacturing Industry, and hearings having been duly held thereon and the annexed report on said Code containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Orders of the President, including Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate by reference said annexed report and do find that said Code complies in all respects with the pertinent provisions and will promote the policy and purposes of said Title of said Act; and do hereby order that said Code of Fair Competition be and it is hereby approved.

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

A. R. GLANCY,
Division Administrator.

WASHINGTON, D.C.,
April 4, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Code of Fair Competition for the Bottling Machinery and Equipment Manufacturing Industry, as revised after a Public Hearing held in Washington on the 20th day of December, 1933, in accordance with the provisions of the National Industrial Recovery Act.

PROVISIONS AS TO HOURS AND WAGES

Employment is limited to 8 hours per day and 40 hours per week and 6 days in any 7 day period with the exception of those employees engaged in emergency maintenance or emergency repair work. To provide for seasonal demands overtime is allowed to the extent of 8 hours per week for 6 weeks in any 6 months' period.

Overtime in excess of 8 hours in any 24-hour period or in excess of 40 hours in any 7 day period will be paid for at one and one-half times the normal rate.

Minimum wages of 40 cents an hour for males and females are established except office and clerical employees who may be paid at a rate \$15.00 per week, and office boys and girls at a rate of \$12.00 per week. Female employees performing substantially the same work as male employees will receive the same rate of pay.

ECONOMIC EFFECT OF THE CODE

Before the adoption of the reduced hourly schedule in 1933, this Industry averaged 54 hours per week. Its thirty companies employed about 1800 persons. Adoption of the 40 hour week would increase employment to 2430 persons or an increase of 34%.

The invested capital of the Industry is about \$15,000,000. Sales in 1932 totaled about \$3,300,000 but sales for 1934 are estimated at \$7,000,000 or an increase of 51%.

FINDINGS

The Deputy Administrator in his final report to me on said Code having found as herein set forth and on the basis of all the proceedings in this matter:

I find that:

(a) Said Code is well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act, including removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among the trade groups,

by inducing and maintaining united action of labor and management under adequate governmental sanctions and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving standards of labor, and by otherwise rehabilitating industry.

(b) Said Industry normally employs not more than 50,000 employees; and is not classified by me as a major industry.

(c) The Code as approved complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof; and that the applicant group is an industrial association truly representative of the aforesaid Industry; and that said association imposes no inequitable restrictions on admission to membership therein.

(d) The Code is not designed to and will not permit monopolies or monopolistic practices.

(e) The Code is not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said Code.

For these reasons, this Code has been approved by me.

Respectfully,

HUGH S. JOHNSON,
Administrator.

APRIL 4, 1934.

CODE OF FAIR COMPETITION FOR THE BOTTLING MACHINERY AND EQUIPMENT MANUFACTURING INDUSTRY

ARTICLE I—PURPOSE

To effectuate the policies of Title I of the National Industrial Recovery Act the following provisions are established as a Code of Fair Competition for the Bottling Machinery and Equipment Manufacturing Industry and shall be the standards of Fair Competition for the Industry and shall be binding on every member thereof.

ARTICLE II—DEFINITIONS

SECTION 1. The term "The Industry" means and includes the business of manufacturing and selling by the manufacturer of bottling machinery and equipment, embracing principally bottle washers, bottle fillers, bottle syringers, bottle crowners, beverage bottle labellers, beverage carbonators, beverage pasteurizers, beverage syrup mixers, and kindred equipment used in the making, bottling, crowning, labelling and preparation for sale of all types of drinks sold in bottles for beverage purposes, not including wrapping or packing for delivery and excepting dairy products. The foregoing definition is intended to cover the manufacture and sale of machinery and machine parts specifically designed for use in the Beverage Industry.

SECTION 2. The term "member of the Industry" means any person engaged in the Industry as herein defined either as an employer or on his own behalf.

SECTION 3. The term "The Association" means the National Association of Bottling Machinery Manufacturers, now located at 218 Munsey Building, Washington, D.C.

SECTION 4. The terms "President", "Act", and "Administrator" as used herein shall mean, respectively, the President of the United States, Title I of the National Industrial Recovery Act, and the Administrator for Industrial Recovery under said Act.

SECTION 5. The term "employee" as used herein includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

SECTION 6. The term "employer" as used herein includes anyone by whom any such employee is compensated or employed.

SECTION 7. The term "Code Authority" means the Administrative body provided for in Article IV of this Code.

SECTION 8. The term "beverage" as used herein shall mean and include all products prepared for consumption as a beverage (excepting dairy products) and specifically the following:

Beer; alcoholic beverages; wine; soft drinks (carbonated beverages) and waters; all the foregoing whether naturally or artificially carbonated or non-carbonated.

ARTICLE III—LABOR PROVISIONS

SECTION 1. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing.

Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment approved or prescribed by the President.

SECTION 2. No person under 16 years of age shall be employed in the industry, nor anyone under 18 years of age at operations or occupations hazardous in nature or detrimental to health. The Code Authority shall submit to the Administrator for approval before June 1, 1934 a list of such operations or occupations. In any State an employer shall be deemed to have complied with this provision if he shall have on file a certificate or permit duly issued by the authority in such State empowered to issue employment or age certificates or permits, showing that the employee is of the required age.

SECTION 3. *Hours.*—(a) No employee shall be permitted to work in excess of forty (40) hours in any one (1) week or more than eight (8) hours in any twenty-four (24) hour period or more than six (6) days in any seven (7) day period, except as herein otherwise provided.

(b) During any seasonal or peak period when there is an unusual demand on the Industry the foregoing limitations shall not apply and any employee may work a maximum of forty-eight (48) hours for six (6) weeks in any six (6) months' period; provided, however, that one and one half (1½) times the regular hourly rate shall be paid for all time worked in excess of forty (40) hours per week or eight (8) hours per day.

(c) On emergency maintenance or emergency repair work involving breakdowns or protection of life or property, the hours specified above may be exceeded, but in any such case all hours worked in excess of forty (40) hours per week and eight (8) hours in any one (1) day shall be compensated for at not less than one and one half (1½) times the regular hourly rate.

(d) In order to get up steam before work starts in the morning and to bank fires after shutting down at night, power plant engineers and firemen shall be permitted in normal periods a tolerance of ten (10) percent above the maximum hours allowed during such periods, and in peak periods ten (10) percent above the maximum

hours allowed during such periods; provided, however, that one and one half ($1\frac{1}{2}$) times the regular hourly rate shall be paid for all hours and fractions thereof worked in excess of eight (8) hours per day or forty (40) hours per week.

(e) Truckmen and/or deliverymen shall be limited to forty-eight (48) hours in any one (1) week, provided that time and one half be paid for all hours worked over forty (40) hours per week and eight (8) hours per day.

The above regulation of hours and payment of overtime rates shall not apply to the following:

(f) The maximum number of working hours for office or clerical employees in this Industry shall not be in excess of forty (40) hours per week, except that in case of emergency office employees on accounting or similar tasks may be permitted to work not more than eight (8) hours overtime in any one (1) month. A normal day shall not exceed eight (8) hours.

(g) Watchmen shall be permitted to work a maximum week of fifty-six (56) hours provided that one (1) day's rest shall be granted in each seven (7) days;

(h) Any person engaged in a managerial or executive capacity, technical employees acting in a supervisory capacity (not including working foremen), or sales service men who receive not less than thirty-five (\$35.00) dollars per week, and traveling salesmen; provided further that the limitation of hours shall apply to employees otherwise engaged in an executive or supervisory capacity when such employees are engaged in production or mechanical work.

(i) The Industry recognizes the desirability, and accepts the principle of the five (5) day week insofar as these principles relate to working schedules for employees. To the extent that it reasonably can, the Industry will endeavor to employ its labor on that basis.

(j) No employer shall knowingly permit any employee to work for any time which when totaled with that already performed for another employer or employers exceeds the maximum permitted herein.

SECTION 4. *Wages.*—No employer shall pay any clerical, office, service, sales employee (except out-side salesmen), or any other employee not specifically covered in this or any other paragraph less than at the rate of fifteen (\$15.00) dollars per week in any city of over 250,000 population, or in the immediate trade area of such city; nor less than at the rate of fourteen (\$14.00) dollars per week in any city or town of 250,000 or less population; provided, that office boys and/or office girls shall be paid not less than eighty (80) percent of the rates fixed by this section; and provided further that such office boys and/or office girls in each plant shall not exceed five (5) percent of the class of employees covered by this section; and provided further, that each member of the Industry shall be entitled to at least one (1) such office boy and/or office girl.

SECTION 5. No employer shall pay any factory employee less than forty (40) cents per hour; provided that nothing in Section 3 of this Article shall apply to or affect any bona fide apprentice duly indentured under a system or course of training which when completed will make the apprentice a skilled mechanic. A copy of each

such indenture shall be filed with the Code Authority. At no time shall new apprentices be admitted to apprenticeship in the employ of any one employer when such action will bring the total number of apprentices in the employ of such employer to more than five (5) percent of the total number of employees covered by this section; provided, however, that each employer shall be entitled to at least one apprentice.

It is agreed that this paragraph establishes a guaranteed minimum rate of pay regardless of whether the employee is compensated on the basis of a time rate, piecework, or other basis.

Female employees doing substantially the same work as that performed by male employees shall receive a rate of compensation equal to that of such male employees.

SECTION 6. The wage rates above the minimum fixed by this article shall be equitably adjusted, if this has not been done since May 1, 1933, and in no case shall they be decreased as the result of such adjustments. Each member of the Industry shall report all such adjustments to the Code Authority within thirty (30) days after the effective date.

SECTION 7. No employer shall re-classify employees or duties of occupations performed or engage in any other subterfuge for the purpose of defeating the purposes or provisions of the Act or of this Code.

SECTION 8. Every employer shall make reasonable provision for the safety and health of his employees at the place and during the hours of their employment. Standards for safety and health shall be submitted by the Code Authority to the Administrator for approval within six (6) months after the effective date of this Code.

SECTION 9. Within each State this Code shall not supersede any laws of such State imposing more stringent requirements regulating the age of employees, wages, hours of work, or health, welfare or general working conditions, than are imposed by this Code.

SECTION 10. Each employer shall keep posted in conspicuous places, easily accessible to employees, full copies of this Code, and any amendments and modifications which may later be approved.

ARTICLE IV—ADMINISTRATION

SECTION 1. To effectuate the policies of the Act and to provide for administration of this Code within the Industry, a Code Authority of five (5) members shall be established by the Industry. Furthermore, upon request of the Administrator, non-voting representatives not to exceed three (3) in number, to be appointed by him, shall be added to such Code Authority. All employers engaged in the Industry as herein defined shall be entitled to participate in the election of such members of the Code Authority; such election may be by proxy, letter-ballot or in person. Such election shall be determined by a majority vote of the members of the Industry, present at the election or represented by proxy or letter-ballot, each member being entitled to one (1) vote. The individuals so elected shall serve for terms of one (1) year respectively, at the end of which successors shall be elected as above provided. Any individual elected to the

Code Authority shall be eligible for re-election. Vacancies may be filled by the Code Authority.

Each trade or industrial association directly or indirectly participating in the selection or activities of the Code Authority shall:

(1) Impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its articles of association, by-laws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

In order that the Code Authority shall at all times be truly representative of the Industry and in other respects comply with the provisions of the Act, the Administrator may provide such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an appropriate modification in the method of selection of the Code Authority.

SECTION 2. The Code Authority shall have the following duties and powers to the extent permitted by the Act:

(a) The Code Authority shall be charged with the supervision and administration of this Code and may adopt by-laws, rules and regulations for its procedure and for the administration of this Code.

(b) In order that the President may be informed of the extent of observance of the provisions of this Code and of the extent to which the declared policy of the National Industrial Recovery Act is being effectuated in the Industry as herein defined, the Code Authority shall make such reports as the Administrator may require, and each member of the Industry shall make such sworn or unsworn reports to the Code Authority periodically, or as often as it may direct, on wages, hours of labor, conditions of employment, number of employees, production, shipments, sales, stocks, prices, and other matters pertinent to the purposes of this Code as the Code Authority may require, subject to the approval of the Administrator.

(c) Members of the Industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. The reasonable share of the expenses of administration shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration.

(d) In addition to information required to be submitted to the Code Authority, there shall be furnished to Government Agencies such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the National Industrial Recovery Act.

(e) The Code Authority shall appoint a secretary and any and all information requested by the Code Authority shall be filed with the secretary and deemed confidential and shall not be divulged

to any member except in summary, but shall be available to the Administrator upon request.

(f) The Code Authority may designate the National Association of Bottling Machinery Manufacturers or any other appropriate agency to assist it in carrying out the powers and duties conferred upon it by this Code; provided, that the Code Authority shall not be relieved of responsibility and that when such Association acts in such capacity it shall comply with all the provisions of this Code applicable to the Code Authority.

(g) The Code Authority may from time to time appoint such sub-committees or designate such agencies, and may delegate to any of them such of its powers and duties, as it shall deem necessary or proper in order to effectuate the provisions and purposes of this Code.

(h) The Code Authority shall study the effect of the various provisions of this Code on the Industry and consider proposals for amendments or modifications and make recommendations from time to time thereon to the Administrator, which amendments or modifications will become effective as part of the Code, upon approval by the Administrator after such notice and hearing as he may specify.

SECTION 3. Any interested party shall have the right of complaint to the Code Authority and of a prompt hearing and decision thereon in respect to any decision, rule, regulation, or other course of action of such Code Authority. Such complaint must be filed in writing with the Code Authority within a reasonable period of time after said decision, rule, regulation, or course of action is issued or taken. The decision of such Code Authority may be appealed by any interested party to the Administrator.

SECTION 4. If the Administrator shall determine that any action of the Code Authority or any agency thereof may be unfair or unjust or contrary to the public interest, the Administrator may require that such action be suspended to afford an opportunity for investigation of the merits of such action and further consideration by such Code Authority or agency pending final action which shall not be effective unless the Administrator approves or unless he shall fail to disapprove after thirty days' notice to him of intention to proceed with such action in its original or modified form.

ARTICLE V—TRADE PRACTICES

The following practices constitute unfair methods of competition for members of the Industry and are prohibited:

SECTION 1. The secret payment or allowance of rebates, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or the secret extension to certain purchasers of special services or privileges not extended to all purchasers on like terms and conditions.

SECTION 2. No member of the Industry shall induce or attempt to induce the breach of an existing contract between a competitor and his customer or source of supply; nor shall any such member interfere with or obstruct the performance of such contractual duties.

ARTICLE VI—GENERAL

SECTION 1. No provisions of this Code shall be construed, interpreted, or applied in such a manner as to—

- (a) Promote monopolies or monopolistic practices.
- (b) Promote or encourage unfair competition.
- (c) Eliminate or oppress small enterprises.
- (d) Discriminate against small enterprises.

SECTION 2. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the National Industrial Recovery Act, from time to time to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

SECTION 3. This Code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modifications to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President.

ARTICLE VII—VIOLATIONS

Violation by any member of the Industry of any provision of this Code or any rule or regulation issued thereunder, or any deliberately false statement or report made to the Administrator or the Code Authority, after decision thereon by the Administrator pursuant to Article IV of this Code, shall constitute an unfair method of competition and the offender shall be subject to the penalties provided by the Act.

ARTICLE VIII—EFFECTIVE DATE

The Code shall become effective eleven (11) days after it is approved by the President.

Approved Code No. 379.
Registry No. 1399-22.



UNIVERSITY OF FLORIDA



3 1262 08582 9165